EXHIBIT 16

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF HUMBOLDT

CARLA ALLEN,
Plaintiff,

vs. Case. DR 180132

BRENNTAG NORTH AMERICA, INC.,
(sued individually and as
successor-in-interest to MINERAL
PIGMENT SOLUTIONS, INC., and as
successor-in-interest to WHITACKER
CLARK & DANIELS, INC.,) et al.,
Defendant.
_____/

REPORTER'S TRANSCRIPT OF PROCEEDINGS
HAD BEFORE JUDGE TIMOTHY A. CANNING
Volume V - pages 848 to 983
Eureka, California
Monday, October 1, 2018

Reported By:
LINDA VACCAREZZA, RPR, CLR, CRP, CSR. NO. 10201
JOB NO. 148406

October 1, 2018
9:49 a.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS, held at Superior Court of California, County of Humboldt, 825 5th Street, Courtroom 1, Eureka, California, Before Judge Timothy A. Canning, reported by Linda Vaccarezza, a Certified Shorthand Reporter of the State of California.

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attorney, can claim where these samples came from and whether or not they are original product. That's an overarching theme of the defense case.

And so what we were -- what was taken away from us is not only the opportunity to test in a similar fashion as Dr. Longo did, which by the way, Your Honor, when he was deposed he said that he wouldn't expect Dr. Sanchezs' laboratory to do any different in terms of timing or do anything different in terms of testing than what he did.

It's the fact that we had our investigation taken away from us. We lost two months of being able to conduct any sort of the survey and discovery request, conduct depositions in order to obtain information about the providence of these samples. And by the time that these samples were disclosed to us, and when we got that letter, there was nothing about these samples. It simply said we have samples, come and get them.

There was less than a week left before fact discovery closed. I mean, our hands were completely tied. There was nothing we could have done at that point. And when we met and conferred with Simon & Greenstone and wrote them a letter two days after we were made known about the existence of the samples and

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said, we know nothing about their condition, where they came from, how they were collected and transported, we got nothing in response. And saying we will -- we'll comply with the experts discovery deadline and we'll give you what you need 48 hours before Dr. Longo's deposition. That wasn't the point.

The point was to find out how they got this physical evidence, where it came from, and whether or not we had an opportunity to conduct an investigation. That's what was taken away from us.

Had they provided a list as the Court suggested in July in response to discovery, not only the inspection demand but the request for admission, saying that there were no unsealed containers, we could have started that process. We would have immediately started discovery request. We would have immediately met and conferred with them about where they got the samples and deposing those individuals. That's what was taken away from us. That's the harm here.

THE COURT: I appreciate the argument. I think I've probably heard enough at this point. And I am concerned obviously about this giving Colgate sufficient time to address the samples, at least the existence of the samples. And I certainly understand

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Colgate's argument regarding doing additional discovery to try to figure out where the samples came from and what the history of those samples are.

But at this point, what the Court will do is, I'll leave my order in place for now, subject to modification based on where things stands on the 15th.

Again, my intention is not to punish the plaintiff for failing to turn over the -- to disclose the existence of those samples, but I also want to address the prejudice that's causing the defendant because, as I mentioned, I thought it was an abuse of the discovery process, so as not disclose the existence of those samples.

So at this point the Court will leave the order as previously stated, but I would, with the permission to revisit those sanctions on the 15th.

And so I guess returning back to the question of scheduling. My intention, the Court's intention at least, was that we would have a panel picked by the end of this week and hopefully start with our openings next week. But I haven't gotten an update yet as far as where things stand downstairs as far as jury selection.

I do know that we lost a couple of jurors over the weekend who essentially developed medical

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issues. And so we are now down to, I think it's 57 or 58 in our pool. And so it's one of the concerns that the longer it takes to bring people up, we start losing people. So hopefully we can start bringing people on tomorrow, depending on how things go today.

MR. MULARCZYK: Your Honor, I did have a question. Once we have the number locked in, in terms of group that's copping up, are we going to receive a randomized list from the Court of who those jurors will be, in terms of preparation?

THE COURT: Yes. And we'll generate a randomized list and we'll identify who will be the first 16 that we call as well -- or first eight.

MS. BRANSCOME: Would it be possible, Your Honor, to find out which jurors have dropped out already? Just so that we don't spend time preparing voir dire for jurors that we know are not returning?

THE COURT: Thank you, yes. And I can certainly get that information for you over the lunch hour.

MS. BRANSCOME: Thank you.

MR. MULARCZYK: Thank you, Your Honor.

MR. NIDEFFER: Your Honor, regarding the ex parte that we filed this morning, this is in regards to what happened on Friday with the request for a

leave to amend the complaint.

And we did reach an agreement over the weekend, once we gave the ex parte notice on Friday, for Tuesday, on a briefing schedule, shorter briefing schedule. So we have that. The motion was filed and served on all parties on Saturday before noon, was the agreement. The ex parte was served this morning. So what we're requesting, that the ex parte to be heard tomorrow morning.

It's just the Court's agreement to our shortened briefing schedule. The opposition is going to be filed by Tuesday morning at 9 a.m. And then the parties are willing to hear that tomorrow afternoon at 1:30, as long as the Court is willing to hear that.

THE COURT: Is there any -- looks like this is a stipulation but I just wanted to check in with other counsel as far as any issues with the scheduling.

MS. BRANSCOME: That is the agreement with respect to the shortened briefing schedule. It was our possession this was not an appropriate motion, just ex parte, but we agreed to a shortened briefing schedule.

THE COURT: Thank you. So that is certainly acceptable to the Court. So for the motion to amend

the complaint, we'll have opposition papers to be served tomorrow morning and then we'll have a hearing at 1:30 tomorrow afternoon.

MR. NIDEFFER: Thank you, Your Honor.

THE COURT: Do you have a time estimate as far as how long yours might take?

MR. NIDEFFER: I think our argument would probably be about 15 minutes, Your Honor.

THE COURT: All right. Does defense counsel have an estimate?

MS. BRANSCOME: Ours might be a touch longer, Your Honor. There's some complex legal doctrine, but I would say 30 minutes or so.

THE COURT: All right. And just want to know in case we do start bringing jurors up tomorrow. And then we'll take a little extra longer lunch break in order to address the motion.

Then turning to the defendants Motions in Limine Number 1 -- I'm sorry, Number 5 and Number 4 and Number 1. As far as defense Motion in Limine Number 1, the Court is going to deny that request.

It does appear to the Court that at least there's a sufficient basis for the experts to testify as to their testing of the samples themselves. Though there's a conflict as to what the appropriate

definition of asbestos is, as well as the detection method for fibers as well as the methodology used for counting fibers. There's also issues raised as to the genuineness and authenticity of the contents of the container.

In the Court's view, those issues go to the weight of the results, not so much as to whether or not it's admissible or not. And so, in the Court's view those are issues that are appropriate for the jury to resolve.

And so the Court will permit the plaintiffs' expert to testify as to what they actually did, the description of the samples they tested, as well as why the procedures and methodology they employed adequately supports their conclusions about the samples.

Defendants can cross-examine and argue to the jury that the experts testimony should be either disregarded or not given much weight because of questions regarding the source or content of the samples as well as the methodology employed by plaintiffs' experts.

However the data they found supports their conclusions about those samples. But under the standard of Sargon, the Court does believe that that's

a -- those are issues for the jury to decide not issue for the Court to decide.

MR. MULARCZYK: Your Honor, one point of clarification.

THE COURT: Certainly.

MR. MULARCZYK: So as I understand it, the plaintiffs will be limited in their ability to discuss samples that they actually personally tested. So the samples we sought to exclude are over 50 of them, by other experts that have been tested, they will not be able to discuss those.

THE COURT: If they use those as far as to support their conclusions, they can offer testimony about other examples -- or other samples that were tested. But as far as making the conclusions that those samples also contained asbestos, to the Court, that goes beyond what plaintiff's experts can testify to.

They can certainly testify as to what other information they used to rely on, to reach their conclusions about these samples -- the samples that they actually tested.

MR. MULARCZYK: So they can't talk about the results of the testing by the others?

THE COURT: They can talk about the

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methodology, and the testing and so forth. But as far as using that information to reach a conclusion that therefore their samples also had asbestos, that's beyond the scope of the expert testimony.

MR. GREENSTONE: So, for instance, Your Honor, and I apologize.

THE COURT: Certainly. I would rather have it clarified at this point and work out any issues.

MR. GREENSTONE: Right. So, for instance, Dr. Compton and Dr. Longo, setting aside the Cashmere Bouquet for a moment, Dr. Longo and Dr. Compton can testify about the testing that they have done on the samples that they tested and they can tell the jury about those things?

THE COURT: That's correct, yes.

MR. GREENSTONE: And then as it relates to -- so the Court's ruling is then relating to them, then talking, for instance, Dr. Compton saying, here's what some other expert tested and here's what they found, that's what you've limited?

THE COURT: Correct. They can talk about other testing but not as far as the conclusion that the talcum powder had asbestos.

MR. GREENSTONE: Okay.

THE COURT: If they are using the same

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methodology to support what the testing methods were that the plaintiff's experts used, they can testify, for example, this is the same methodology used by other experts.

As to the Motions in Limine Number 4 and Number 5, the Court will deny those in part and grant those in part.

In the Court's view, Dr. Longo Dr. Compton, again, will be allowed to testify about the testing that they did, the methodology that they used, the data they collected from the samples that they tested. They can also testify regarding their conclusions about the samples that they tested.

However, the Court finds that there's not a reasonable basis for Dr. Longo or Dr. Compton to opine about asbestos in the entire product line throughout the years that Ms. Allen used the products, or specifically in the products that Ms. Allen actually used.

The Court doesn't see that there's any evidence that these two experts used any scientific method or any mathematical method or any statistical method in reaching their broad conclusions about the products line or about the products that Ms. Allen actually used.

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To the Court's view, those opinions are based on a leap of logic or conjecture. And quoting from the case Sargon, S-A-R-G-O-N, quote, the Court may conclude that there is simply too great an analytical gap between the data and the opinion proffer, end quote.

That was from Sargon versus U.S.C. (2012) 55 Cal. 4th 747, pages 771-772.

Similarly, the Court also stated in that opinion that expert opinion is not admissible if it consists of inferences and conclusions which can be drawn as easily and intelligently by the trier of fact as by the witness.

So here, the Court's view is that Dr. Compton and Dr. Longo's opinion, or the presence of asbestos in the entire talc line is not based on research or scientific methodology, but instead is based on inferences and conclusions about their product line from the research on samples.

But there's no testimony, or at least no evidence here, that the doctors used any type of scientific methodology or mathematical analysis to extrapolate from what they found in the samples to what was contained in the entire product line.

Also there was some testimony I guess from a

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-- that showed up in a report on samples from the mines and the idea that the mines actually had homogeneous population, or that the mines were geologically homogeneous, but that doesn't translate in this matter to being able to use the samples to reach a conclusion about the entire mine. And primarily because the samples themselves showed variations as far as the number of asbestos fibers that were in the mine samples.

Also, there's nothing in the expert's training or background that suggest any expertise or specialized knowledge or training in extrapolating data from the samples to describe an entire population.

And so the Court is going to grant the Defendants Motion in Limine Number 4 in part, to exclude Dr. Compton's testimony as to the following opinions. This is excluding these opinions that the talc plaintiff used contained asbestos, that all or most of the talc from the argonaut mine contained asbestos, that all or most of the talc from the Italian mine contained asbestos, and all or most of the talcum powder sold in the United States contained asbestos.

So as to Number 5, the Court will exclude any

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testimony from Dr. Longo regarding follow-up opinions. The talc plaintiffs used contained asbestos. All or most of the talcum powder sold in the United States contained asbestos as well as other opinions that reach beyond the samples that Dr. Longo has tested.

And so as far as this is concerned, are there any requests for clarification?

MR. MULARCZYK: Not from Colgate, Your Honor. Thank you.

MS. BRANSCOME: Not from J & J. Thank you, Your Honor.

THE COURT: Sure.

MR. GREENSTONE: But as it relates -- I do want to clarify just one issue. As it relates to the motion in limine relating to their -- the testing that was done by Dr. Compton and Dr. Longo, the Court has denied the motion in limine and allowed Dr. Compton and Dr. Longo to come and testify about the methodology and their own testing and the results? Am I understanding that correctly?

THE COURT: That's correct, but not the next step of saying that because of our results we believe that all talc contained asbestos.

MR. GREENSTONE: I understand, Your Honor. Thank you.

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THE COURT: Thank you.

And next then, we can move to the trial preservation testimony by Dr. Cameron.

MR. MORRIS: Your Honor, with your permission?

THE COURT: I believe we're ready to proceed, yes.

MR. MORRIS: Chad Morris, on behalf of Johnson & Johnson.

Your Honor, as you had stated, this hearing is about line and page designations from Dr. Cameron's deposition. And I think you've been provided with a notebook that has the designated testimony. I did want to point out one thing. I guess we tried to make this probably as confusing for the Court as we possibly could.

On every page where there is a designation that may run ten or twelve pages, there will be an objection on the top of each page. But not every question and answer has been objected to. So you really have to follow the chart that has the designation by page and line number, and then the objection besides it. And then there will be a place for the Court's ruling.

I just didn't want to -- I was a little

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nervous the Court would be overwhelmed by the number of stamped objections on every page and it's not as voluminous as it would appear. And I think you will have to follow that page and line number from the objections.

THE COURT: Thank you.

MR. MORRIS: Just to set the stage, the Court entered a ruling last week that portions of Dr. Cameron's deposition exceeded the scope of treatment and went into areas that would be beyond what a treating physician would be able to testify about.

Instead of trying to take on individual questions and answers, for me it's -- I put it in three buckets. And the objection would apply basically similarly to every Q and A that's in that bucket. The first one deals with Dr. Cameron's testimony about pleural plaques. And that's found at Pages 138 through Page 145.

And so to set the stage for that, we again go to the discovery deposition where Dr. Cameron is asked whether there are any radiographs, pathology, or other testing that confirms the existing of pleural plaques. And his answer is uh, no.

Dr. Cameron did not say he needed to look at

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other medical records. He did not say that he had some vague recollection that there might have been something he has seen in the past. So when we left the discovery deposition, it was our understanding that Dr. Cameron had no opinions that there was a pleural plaque. That was consistent with what the plaintiffs' expert Dr. Kradin had said 24 hours earlier. And we certainly had no reason to think that pleural plaques would be an issue when he came to trial to testify.

So then we moved to the trial preservation deposition and that's as if he would come in on Wednesday of next week to testify in front of Your Honor and the jury, and we had received no notice from the plaintiff that Dr. Cameron had new opinions or different opinions.

We had no notice whatsoever that he would offer an opinion about pleural plaques until close to the end of the deposition, plaintiff's counsel pulls out a recorded that is not in Dr. Cameron's record set. It's not a record that's part of the U.C.L.A. file.

And they begin to lead him down a series of questions:

Do you recall being asked about pleural

plaques last week in your discovery deposition? He says yes.

Do you recall what you said?

He says yes.

What did you say?

And he then responded that he says he wanted to look at the records.

But that's not what he said in the discovery deposition.

He then says that he remembered that he thought he saw a pathology or something like that about a pleural plaque. He didn't say anything about that in the discovery deposition. So what you have is a physician who is a treating physician, being shown a document that's not part of his file by the plaintiffs lawyer, a complete surprise to the defendants. It's not a U.C.L.A. record. It's a biopsy that's not a procedure that Dr. Cameron performed. It's not a procedure that anyone within his department or at U.C.L.A. did.

And for the first time, he not only says there is a pleural plaque, he then goes the next step to say he has an opinion about that, and that it was caused by exposure to asbestos. And our view, Your Honor, is that this one goes well beyond the scope of

treatment of a physician, Number 1. Both in the use of a record brought to the deposition by the plaintiffs lawyer.

And then, two, rendering an opinion about that beyond his treatment of the plaintiff. And in the briefing, Your Honor, for the original motion, we cite to a case called Dozier versus Shapiro. And I have an extra copy of that if Your Honor would like to have a copy.

THE COURT: No thanks. I actually have easy access to it.

MR. MORRIS: And so this is 199 Cal. App. 4th 1509. It's Dozier vs Shapiro. It's a medical malpractice case, and a treating physician who was a non-retained expert was deposed by the defendant.

Defendants counsel asked, do you have any opinions about the standard of care that was given to the plaintiff?

The treating physician responded that he didn't have an opinion because he didn't have enough information to formulate a view at that point. The treating physician, again, a non-retained expert shows up at trial and attempts to offer testimony that some of the treatment performed by the defendant physician had in fact breached the standard of care.

And the Court ruled that there is a time and place where a physician sort of steps out of that treating physician role and is treated like a retained expert. And I think sort of a quote out of this case from the Court is very, sort of illustrative of what happened to us in this case.

The Court said that after a witness has denied at his or her deposition having reached opinions on a particular subject, the defendant is entitled to rely on that disclaimer until such time as appellate disclosed that the expert had conducted further investigation, had reached additional opinions in a new area of inquiry.

When counsel is not notified when the opposing parties' expert witness formulate post deposition opinions to be offered at trial, the witness is in effect not made available for deposition as to the further opinions. The very purpose of the expert witness discovery statute is to give fair notice of what an expert will say at trial. When an expert is permitted to testify at trial on a wholly undisclosed subject area, opposing parties lack a fair opportunity to prepare for cross-examination or rebuttal.

And that, Your Honor, is exactly what

happened in this case. To our surprise, for the first time we are now talking about a pleural plaque and it was caused by asbestos. And the defense lawyers were completely denied an opportunity to prepare for a trial cross-examination at this deposition.

And based on that, Your Honor, we will ask that the Court exclude the questions and answers relating to the pleural plaque.

The second bucket --

MR. GREENSTONE: I'm sorry, Your Honor, I just thought perhaps that while we were talking buckets, that I could respond to that before they moved on to the next one, while the argument is still fresh.

MR. MORRIS: Whatever the Court prefers is fine with me.

THE COURT: If you don't mind, let's go ahead and have a plaintiff's response to that.

MR. SHARP: Your Honor, I know I've been very quiet. And I know you've been dying to hear from me. Your Honor, Gary Sharp, on behalf of Colgate. The only thing I would add to that is that it should be excluded under Cameron.

And Number 2, the description in the biopsy was a fibrous sclerotic plaque. That is a nonspecific

THE COURT: Unless there's some reason to be present. We certainly have the time, so if there's something that we can address prior to the start of voir dire?

MS. KO: Your honor, just to keep on the radar that there is still a CVS motion in limine on five newspaper articles but that hasn't been fully briefed yet. We're still -- the plaintiffs are intending, I understand, to file a written opposition and we haven't seen that yet so it's not fully briefed.

I don't think we need to wait on voir dire -- on that motion to start voir dire; I just wanted that on the Court's radar.

And that was Number 30, I think?

MS. KO: Number 30, yes.

MS. BRANSCOME: And I would just say, Your Honor, according to the agreed upon briefing schedule we will be filing our opposition to the plaintiff's motion for leave to amend the complaint by 9:00 a.m. tomorrow so that will be something that will be coming in before the 1:30 hearing, but I don't think there's any other outstanding issues at least from J&J's standpoint.

MR. MULARCZYK: Not unless the Court wants to

talk about the rulings on the trial preservation for Dr. Cameron, I don't think so.

THE COURT: That's true. If you don't mind, perhaps we can do that at 1:30 as well, or sometime during the afternoon session.

MR. MULARCZYK: That's fine, that's fine.

THE COURT: So that's what we'll do then. We'll set Wednesday for the start of voir dire and tomorrow morning we won't have any session and then we'll resume at 1:30 tomorrow afternoon.

(Time noted 2:34 p.m.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF HUMBOLDT)

I, LINDA VACCAREZZA, CSR NO. 10201, do hereby certify that I am a Freelance Certified Shorthand Reporter in and for the State of California, and that as such, I reported the proceedings had in the above-entitled matter at the time and place set forth herein;

I further certify that my stenotype notes were thereafter transcribed by me, and that the foregoing pages numbered 848 to 983, constitute a full, true and correct transcription of my said notes.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 2nd day of October, 2018.

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LINDA VACCAREZZA, CSR, RPR, CLR, CRP
License No. 10201